

**BEFORE THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

In the Matter of:

NEUBIG FARMS,

Respondent.

**Docket No. FMCSA-2008-0370¹
(Eastern Service Center)**

ORDER TERMINATING PROCEEDING AND CLOSING DOCKET

On October 7, 2008, the Connecticut Division Administrator, Federal Motor Carrier Safety Administration (FMCSA) served a Notice of Claim (NOC) on Respondent proposing a civil penalty of \$2,000 for one violation of 49 CFR 382.115(a), failing to implement an alcohol and/or controlled substances testing program. On November 12, 2008, the Field Administrator for FMCSA's Eastern Service Center (Claimant) served a Notice of Default and Final Agency Order (NDFAO) based upon Respondent's alleged failure to file a timely reply to the NOC. The NDFAO advised Respondent that the NOC would become the Final Agency Order in this proceeding effective November 17, 2008, with the civil penalty immediately due and payable on that date.

On November 14, 2008, Respondent served a Petition for Reconsideration of the Final Agency Order. Respondent claimed it filed a timely reply to the NOC and submitted a copy of this reply, in which it admitted the violation and requested binding arbitration. Instead of responding to the Petition for Reconsideration, Claimant entered

¹ The prior case number was CT-2008-0091-US1266.

into a Settlement Agreement with Respondent, but failed to notify the Assistant Administrator that it had done so until January 28, 2010.

On January 28, 2010, Claimant served a Notification of Settlement and Motion to Close Docket. Under the Settlement Agreement, which was executed on December 3, 2008, and adopted as a Final Order,² Respondent agreed to pay the negotiated amount of \$1,600 in five monthly payments. Respondent's payment obligation expired on May 12, 2009, and there is no indication that it has not complied with this obligation.

Unfortunately, this is not the first time that a lengthy period of time has elapsed between the execution of a Settlement Agreement and the submission of the Agreement to me for approval.³ Claimant and the other three FMCSA Field Administrators are again reminded of the importance of promptly submitting for approval Settlement Agreements disposing of cases before the Assistant Administrator.

THEREFORE, *It Is Hereby Ordered*, the Settlement Agreement is the Final Order in this matter, the proceeding is dismissed, and the docket is closed.



Rose A. McMurray
Assistant Administrator
Federal Motor Carrier Safety Administration

2.17.10

Date

² Settlement Agreement, paragraph 8.

³ See, e.g., *In the Matter of Trico Industries, Inc.*, Docket No. FMCSA-2008-0206, Order Dismissing Proceeding and Closing Docket, October 1, 2009; *In the Matter of TGL, SA de CV*, Docket No. FMCSA-2004-19573, Order Closing Docket, November 13, 2009; and *In the Matter of Randy Vilela dba Randy Vilela Auto Body Repair & Painting*, FMCSA-2008-0353, Order Terminating Proceeding and Closing Docket, November 24, 2009.

CERTIFICATE OF SERVICE

This is to certify that on this 18 day of February, 2010, the undersigned mailed or delivered, as specified, the designated number of copies of the foregoing document to the persons listed below.

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